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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/612,288 | 07/03/2003 | Fabrice Diehl | PET-2092 | 5777 |

23599 7590 03/18/2005

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EXAMINER

BROWN, JENNINE M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1755

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,288

Applicant(s)

DIEHL ET AL.

Examiner

Jennine M. Brown

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-10,12-17 and 20 is/are rejected.
7) ☒ Claim(s) 11,18 and 19 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

Applicant's amendment now obviates Examiner's previous rejections, therefore the previous rejections have been withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-10, 12-17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapidus, et al. (US 6331574 B1) in view of Allain, et al. (US 3928443 A).

See entire reference. Lapidus, et al. disclose a process for the preparation of high activity carbon monoxide hydrogenation catalysts and compositions thereof. Metals are impregnated into a support which is then calcined to form oxides then treated with a solution of a chelating compound. The catalyst comprises a porous

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support such as a refractory inorganic oxide support, such as a crystalline aluminosilicate, natural or synthetic zeolite, alumina, silica, silica-alumina or titania (col. 2, l. 23-28; col. 4, l. 4-12) The support is impregnated with an aqueous Group VIIB or Group VIII metal or metals (col. 2, l. 28-34; col. 4, l. 13-23). The support is then calcined (col. 2, l. 35; col. 4, l. 61-66). Relative ratios of deposition are given (col. 2, l. 38-42). The support is then contacted and treated with a solution of chelating compound, preferably a poly or multidentate chelating compound (col. 2, l. 44-52; col. 5, l. 33-col. 6, l. 42). Amines are given such as ethylene diamine, alkyl diamines, diethylenetriamines, dialkyltriamines, acetylacetone, alkyl dicarboxylic acids and alkali salts of carboxylic acids (col. 6, l. 3-28).

Although Lapidus, et al. disclose an amine they do not disclose the specific compounds in the Markush group of claim 1. Allain, et al. disclose a copper catalyst which uses amine compounds (diethanolamine col. 10, l. 18; amines – col. 9, l. 40-col. 11, l. 4; aminocarboxylic acids - col. 11, l. 48-63) disclosed both in the prior art reference and those in the Markush group of the instant claims. Therefore Allain, et al. cures the deficiency of Lapidus, et al. by giving an equivalence between the amine disclosed in Lapidus, et al. and those used in the Markush group of the instant claims, therefore it would have been obvious to one of ordinary skill in the art to modify the catalyst of Lapidus, et al. to use any of the amine compounds disclosed in Allain, et al. as multidentate ligands useable in making an active catalytic composition which would be equivalent to that claimed.

Response to Arguments

Applicant's arguments filed 1/5/05, with respect to the previous rejection of the claims respectively under Kasztelan, Harle, and Plantenga have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration and new search, a new ground of rejection is made in view of Lapidus, et al. in view of Allain, et al. supra.

Allowable Subject Matter

Claims 11, 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art of record fails to teach or fairly suggest a sulfurized form of the catalyst or a method further comprising a sulfurization stage after impregnation of the substrate, or that the organic compound is present in the sulfurization feedstock deposited during the sulfurization stage.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (571) 272-1364. The examiner can normally be reached on M-R 9:30 AM - 7:30 PM; Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jmb

J. A. LORENZO
PRIMARY EXAMINER